
Local Government Committee

SSB 6617

Brief Description: Regarding the contents of farm plans prepared by conservation districts.

Sponsors: Senate Committee on Agriculture & Rural Economic Development (originally sponsored by Senators Haugen and Rasmussen).

Brief Summary of Substitute Bill

- Exempts farm plans (plans) developed by conservation districts from public disclosure requirements unless permission to release the plan has been granted by the landowner or operator requesting the plan, or unless the plan is used for applications or permit issuances under the federal Clean Water Act (CWA).
- Specifies that plans developed under certain state water pollution control provisions that are not subject to the CWA are subject to specific dairy and animal feedlot disclosure requirements.
- Obligates conservation districts, before developing a plan, to inform the applicable landowner or operator of the types of information that are subject to public disclosure requirements.
- Specifies requirements that must be satisfied before a plan is disclosed by a conservation district to the public.

Hearing Date: 2/22/06

Staff: Ethan Moreno (786-7386).

Background:

Conservation Districts and Farm Plans

Conservation districts (districts) may be organized in conformity with statutory requirements as governmental subdivisions of the state in incorporated or unincorporated areas. The 47 districts existing in Washington are governed by five-member boards of supervisors and are granted specific powers prescribed in statute, including the authority to:

- conduct surveys, investigations, and research relating to the conservation of renewable natural resources, a term defined in statute to include land, air, water, vegetation, wildlife, and other natural resources;

- implement preventative and control measures and works of improvement for the conservation of renewable natural resources on lands within the district; and
- prepare and keep current comprehensive long-range programs (programs) recommending the conservation of the renewable natural resources of the district. These programs must be directed toward the best use of renewable natural resources and in a manner that will best meet the needs of the district and the state, taking into consideration, where appropriate, numerous statutory criteria.

Districts must prepare annual work plans (work plans), describing the action programs, services, facilities, materials, working arrangements and estimated funds needed to implement the parts of the long-range programs that are of the highest priorities. Districts must hold public hearings in connection with the preparation of work plans and programs.

Programs and supplemental work plans developed by each district have official status as the authorized program of the district, and must be published by the district. Copies must be made available by districts to the appropriate counties, municipalities, special purpose districts and state agencies, and must be made available in convenient places for examination by interested parties. Program summaries and selected excerpts must be distributed as widely as feasible for public information.

"Farm plans" or "farm water quality management plans" are defined in the Washington Administrative Code as site-specific plans for managing resources to protect water quality. Farm plans are developed by farm operators in cooperation with a resource agency and must be approved by district supervisors.

Disclosure of Public Records

The open public records law was approved by voters in 1972 as part of Initiative 276. All public records of state agencies and local governments are open to public inspection and copying unless a record is expressly exempted by law. This disclosure requirement is liberally construed and any exceptions are narrowly constructed.

Public disclosure provisions for dairies, animal feeding operations (AFOs), and concentrated animal feeding operations (CAFOs) were enacted in 2005. Certain information obtained by state and local agencies from dairies, AFOs and CAFOs that are not required to apply for federal stormwater and wastewater discharge permits is disclosable only in ranges, rather than actual numbers, that provide meaningful information to the public while ensuring confidentiality of business information.

Federal and State Clean Water Requirements

The federal Clean Water Act (CWA) sets a national goal to restore and maintain the chemical, physical, and biological integrity of the nation's waters and to eliminate pollutant discharges into navigable waters. The CWA defines pollutant broadly to include a variety of materials that may be discharged into water through human activities, construction or industrial processes, or other methods. Among other provisions, the CWA sets effluent limitations for discharges of pollutants to navigable waters and requires states to adopt surface water quality standards to protect humans, fish and other aquatic life. The Department of Ecology (DOE) has been delegated federal authority to implement CWA programs in Washington.

The CWA also establishes the National Pollutant Discharge Elimination System (NPDES) permit system to regulate wastewater and stormwater discharges. NPDES permits are required for wastewater discharges from point sources to surface waters. NPDES permits also are required for storm water discharges from certain industries, qualifying construction sites, and municipalities operating municipal separate storm sewer systems that satisfy specified criteria.

At the state level, water pollution control statutes grant the DOE authority to administer various water pollution regulatory and enforcement programs to control and prevent the pollution of streams, lakes, rivers, ponds, inland waters, salt waters, water courses, and other surface and underground waters of the state.

Summary of Bill:

Prior to developing a farm plan (plan), conservation districts must inform the landowner or operator in writing of the types of information that are subject to public disclosure, pursuant to certain state disclosure requirements. Before completing the final draft of a plan, districts must send the final draft plan to the requesting landowner or operator to verify the information. The final plan may not be disclosed by a district until the requesting owner or operator confirms the information in the plan and a signed copy of the plan is received by the district.

The list of financial, commercial, and proprietary information that is exempt from public disclosure requirements is expanded to include an exemption for plans developed by conservation districts, unless permission to release the plan is granted by the landowner or operator requesting the plan. This exemption is conditional and does not apply to plans developed by conservation districts that are used for applications or issuance of permits under the CWA.

Plans developed in compliance with state water pollution control laws and not under the CWA are subject disclosure provisions applicable to dairies, AFOs, and CAFOs.

Appropriation: None.

Fiscal Note: Requested on February 16, 2006.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed, except section 2 which takes effect July 1, 2006.